

**Bárður Larsen, editor**

## Independence and Constitution

In this issue as in previous ones, the main focus is on constitutional and international law questions. The subjects this time are also coincide with the preparation for a Faroese Constitutional Conference in March. The Faroese Law Review will organise a debate between Faroese and Danish scholars on the current constitutional position of the Faroe Islands. With this issue we have initiated the upcoming debate. The Faroese Law Review will hopefully feature many learned thoughts from the Conference in coming issues.

In the struggle of the Faroese for Independence the question of Self-determination is ever present. The Faroese have often accused the Danes of not recognising the right of the Faroese to determine their own constitutional structure, within the Realm or otherwise. Many have commented on the Danish insistence that the Danish Parliament must give its formal approval if the Faroe Islands want to secede from Denmark. This is understood by many Faroese as Danish refusal to recognise us as a Nation that can determine its own course regardless of the Danish position.

It is probably true that it is difficult for the Danes to recognise that the Faroes are a Nation in our own right and, therefore, they seem to distort the outside world's view of the Faroes. But, the discussion is also somewhat derailed. The problem is that the parties are talking past each other. The Faroese use international law as basis for their arguments, whereas the Danes often base their position on the Danish Constitution and insist that secession must happen in accordance with that document.

That the Danes consider their Constitution relevant when discussing Faroese secession does not necessarily mean that they ultimately do not believe in

political, moral terms and, even, in terms of international law that the Faroese have a right to break away and establish their own Realm, their own state. Should the Danes have let the Faroese Right to Separate from the Danish Realm be reflected in the Danish understanding of Danish constitutional law, it would be truly surprising. Although many other constitutions have mentioned the right of secession, it will always be fundamental to any political structure that it will crave for surviving intact rather than perish or lose its parts.

Now that Mr. Kári á Rógvi in his note discusses the question of the double nature of the right to self-determination, it is probably for the first time that the question is described in this way in Faroese or Danish context. The main point of his seems to be that should the Faroe Islands secede it will be as a result of a struggle being won outside the Danish Constitution.

It is also time to banish the perception that the Faroe Islands have been part of Denmark for 600 years. We have to tell the Danes and other foreigners that the Faroe Islands until 1814 were a part of Norway and not Denmark. The article written by Mr. Zakarias Wang published in our last issue is now published in English.

Even though Zakarias Wang in his article reaches somewhat extreme conclusions, many are probably disagreeing with him, he enlightens us on the existence of the Norwegian Realm until 1814 and that the Faroe Islands were a part of that Realm, that State, rather than of Denmark. This is demonstrated by referring to the International Court of Justice in the case of Eastern Greenland. In that case for the first time, and for the only time so far, a learned and independent body has ruled on the constitutional position of the associate lands of Denmark.

Danish authorities and experts have for too long been silent on the judgements of the East Greenland case regarding, inter alia, the Faroe Islands. That is why it is so important that the wider world is made aware of what the foremost experts of international law ruled in the constitutional relations of Nordic polities to the West.